

ASSEMBLY BILL

No. 964

Introduced by Assembly Members Brown and Bonta

February 22, 2013

An act to amend Section 11713.18 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 964, as introduced, Brown. Vehicles: dealers.

Existing law makes it unlawful and provides that it constitutes an infraction for any person to violate, or fail to comply with, any provision of the Vehicle Code, or any local ordinance adopted pursuant to this code. Existing law also makes it a violation of the Vehicle Code for the holder of any specified dealer's license to advertise for sale or sell a used vehicle as "certified" or use any similar descriptive term in the advertisement or the sale of a used vehicle that implies that the vehicle has been certified to meet the terms of a used vehicle certification program if any of specified conditions apply. Under existing law, those specified conditions include, but are not limited to, when the vehicle has sustained damage in an impact, fire, or flood, that after repair prior to sale substantially impairs the use or safety of the vehicle, or when the dealer knows or should have known that the vehicle has sustained frame damage.

This bill would delete the limitation that applies the prohibition to the use of the term "certified" or any similar descriptive term in the advertisement for, or the sale of, a used vehicle that implies the vehicle has been certified to meet the terms of a used vehicle certification program. This bill would instead prohibit the holder of any dealer's license from advertising for sale or selling any used vehicle if any of

the specified conditions apply. This bill would also add a dealer's knowledge of airbag deployment as one of the specified conditions for which it is a violation of the Vehicle Code for the holder of any specified dealer's license to advertise for sale or sell a used vehicle.

By creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11713.18 of the Vehicle Code is amended
2 to read:

3 11713.18. (a) It is a violation of this code for the holder of
4 any dealer's license issued under this article to advertise for sale
5 or sell a used vehicle as "~~certified~~" or use any similar descriptive
6 term in the advertisement or the sale of a used vehicle that implies
7 the vehicle has been certified to meet the terms of a used vehicle
8 certification program if any of the following apply:

9 (1) The dealer knows or should have known that the odometer
10 on the vehicle does not indicate actual mileage, has been rolled
11 back or otherwise altered to show fewer miles, or replaced with
12 an odometer showing fewer miles than actually driven.

13 (2) The dealer knows or should have known that the vehicle
14 was reacquired by the vehicle's manufacturer or a dealer pursuant
15 to state or federal warranty laws.

16 (3) The title to the vehicle has been inscribed with the notation
17 "Lemon Law Buyback," "manufacturer repurchase," "salvage,"
18 "junk," "nonrepairable," "flood," or similar title designation
19 required by this state or another state.

20 (4) The vehicle has sustained damage in an impact, fire, or flood,
21 that after repair prior to sale substantially impairs the use or safety
22 of the vehicle.

23 (5) The dealer knows or should have known that the vehicle has
24 sustained frame damage *or an airbag deployment*.

1 (6) Prior to sale, the dealer fails to provide the buyer with a
2 completed inspection report indicating all the components
3 inspected.

4 (7) The dealer disclaims any warranties of merchantability on
5 the vehicle.

6 (8) The vehicle is sold “AS IS.”

7 (9) The term “certified” or any similar descriptive term is used
8 in any manner that is untrue or misleading or that would cause any
9 advertisement to be in violation of subdivision (a) of Section 11713
10 of this code or Section 17200 or 17500 of the Business and
11 Professions Code.

12 (b) A violation of this section is actionable under the Consumers
13 Legal Remedies Act (Title 1.5 (commencing with Section 1750)
14 of Part 4 of Division 3 of the Civil Code), the Unfair Competition
15 Law (Chapter 5 (commencing with Section 17200) of Part 2 of
16 Division 7 of the Business and Professions Code), Section 17500
17 of the Business and Professions Code, or any other applicable state
18 or federal law. The rights and remedies provided by this section
19 are cumulative and shall not be construed as restricting any right
20 or remedy that is otherwise available.

21 (c) This section does not abrogate or limit any disclosure
22 obligation imposed by any other law.

23 (d) This section does not apply to the advertisement or sale of
24 a used motorcycle or a used off-highway motor vehicle subject to
25 identification under Section 38010.

26 SEC. 2. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.